



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**FILED**

06-29-07

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Rulemaking Regarding Whether, or  
Subject to What Conditions, the  
Suspension of Direct Access May Be  
Lifted Consistent with Assembly Bill 1X  
and Decision 01-09-060.

Rulemaking 07-05-025  
(Filed May 24, 2007)

## **COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON PROCEDURAL ISSUES**

### **I. SUMMARY**

The Division of Ratepayer Advocates (DRA) has no significant issues with the scope and schedule for Phase I of this proceeding as set forth in the Order Instituting Rulemaking (OIR).

### **II. PHASE I**

DRA supports the OIR's scope of Phase I, which is limited to the issue of the Commission's legal authority to lift the suspension of direct access. The specific questions in Appendix A reasonably cover the issue and the positions of the parties to date. Phase I, as scoped by the OIR, is addressing a primarily legal issue, and DRA concurs that evidentiary hearings are not necessary for Phase I.<sup>1</sup>

### **III. PHASE II AND PHASE III**

DRA agrees with the categorization of Phase II and Phase III as ratemaking, and supports the OIR's deferral (to a later date to be set by subsequent order) of parties'

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<sup>1</sup> Question 3(b) in Appendix A (re considerations, conditions or constraints relating to assignment of DWR contracts) may trigger some fact-based answers that could give rise to material issues of fact. Should such issues arise, they should be deferred to a later phase of the proceeding, rather than adding evidentiary hearings in Phase I.

requests for hearings in Phase II and Phase III. On a preliminary basis, it appears that evidentiary hearings will be necessary in Phase II and Phase III, but DRA will address that issue more specifically at the appropriate point in the proceeding.

DRA supports the OIR's plan to refine the scope and establish the schedule for Phase II subsequent to a decision in Phase I, and similarly refining the scope and setting the schedule for Phase III subsequent to a decision in Phase II. The Commission's decision in Phase I may narrow the scope of Phase II and III, or may even eliminate the later phases entirely.

#### **IV. CONCLUSION**

DRA does not have any recommendations for changes to the scope and schedule of Phase I. DRA supports the OIR's deferral of establishment of the scope and schedule for Phase II and Phase III to a date after the completion of Phase I.

Respectfully submitted,

/s/ PETER V. ALLEN

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PETER V. ALLEN

Attorney for the Division of Ratepayer  
Advocates  
California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102  
Phone: (415) 703-1123

June 29, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON PROCEDURAL ISSUES**” in **R.07-05-025** by using the following service:

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Executed on June 29, 2007 at San Francisco, California.

HALINA MARCINKOWSKI

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Halina Marcinkowski

**N O T I C E**

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## **SERVICE LIST FOR R.07-05-025**

keith.mccrea@sablaw.com  
debra.jacobson@swgas.com  
tdillard@sierrapacific.com  
dhuard@manatt.com  
fkeen@manatt.com  
nwhang@manatt.com  
douglass@energyattorney.com  
akbar.jazayeri@sce.com  
mike.montoya@sce.com  
rkmoore@gswater.com  
khassan@sempra.com  
gdixon@semprautilities.com  
srahon@semprautilities.com  
ewdlaw@sbcglobal.net  
mflorio@turn.org  
kpp@cpuc.ca.gov  
pva@cpuc.ca.gov  
mrh2@pge.com  
l\_brown369@yahoo.com  
bkc7@pge.com  
michaelboyd@sbcglobal.net  
anginc@goldrush.com  
westgas@aol.com  
jjensen@kirkwood.com  
shayleah.labray@pacificorp.com  
steven.huhman@morganstanley.com  
ajkatz@mwe.com  
emmurphy@mwe.com  
myuffee@mwe.com  
asmindel@knowledgeinenergy.com  
stephen.baker@constellation.com  
julie.martin@bp.com  
gbawa@cityofpasadena.net  
aldyn.hoekstra@paceglobal.com  
wdsmith@sempra.com  
lurick@sempra.com  
kfoley@sempra.com  
snelson@sempra.com  
liddell@energyattorney.com  
mshames@ucan.org  
diane\_fellman@fpl.com  
rcosta@turn.org  
omv@cpuc.ca.gov  
michael.hindus@pillburylaw.com

kfox@wsgr.com  
lisa\_weinzimer@platts.com  
pthompson@summitblue.com  
philha@astound.net  
mrw@mrwassoc.com  
malcolm@ae2.com  
blaising@braunlegal.com  
karen@klindh.com  
ayk@cpuc.ca.gov  
am4@cpuc.ca.gov  
crv@cpuc.ca.gov  
kdw@cpuc.ca.gov  
mjd@cpuc.ca.gov  
mts@cpuc.ca.gov  
trp@cpuc.ca.gov  
kellie.smith@sen.ca.gov  
aulmer@water.ca.gov